



**Opposition to Telcordia's Request
that the FCC assume
NAPM LLC's Responsibilities**



The Industry Represents Itself Through the NAPM LLC

- » The North American Portability Management LLC (the “LLC”) represents the industry on behalf of the industry
 - » Carriers initially established seven regional LLCs to contract with third-party local number portability (“LNP”) administrators
 - » In 1999, carriers merged the individual LLCs into a single entity: the LLC
 - » Any carrier can become a member of the LLC
 - » Members of the LLC represent all industry segments, including wireline, wireless, cable, and VoIP
- » The LLC was formed to negotiate and manage the contracts for LNP administration, including “immediate oversight and management” of the LNP administrator(s)



The Interests of the Industry and Consumers Align

- » No carrier – whether LLC member or not – has any tie to Neustar, Telcordia or any other potential LNP administrator
- » Carriers, like consumers, gain no benefit from higher LNP costs or inefficiencies
 - » Carriers are prohibited from passing marked-up LNP costs through to consumers
 - » Inefficient LNP administration increases carrier costs and thus reduces carrier profits
- » The LLC gains no benefit from favoring any particular LNP administrator

The LLC is in the Best Position to Oversee and Manage the LNP Administrator

- » Nothing has changed since the FCC concluded that the LLC is “best able to provide oversight” of the LNP administrator
 - » The LLC is the entity with the greatest expertise regarding the structure and operation of the LNP database
 - » Using any entity other than the LLC to provide immediate oversight of the LNP Administrator(s) would waste the LLC’s valuable expertise and run the risk that necessary modifications to the database system may be delayed
- » FCC oversight has always focused on competitive neutrality – not the specific terms and conditions of the LNP administrator contracts
 - » The FCC explicitly declined to require LNP administrators to file their master agreements with the FCC

The LLC Considers Each Proposal When Presented

- » The LLC is free to consider any LNP proposal presented at any time
 - » The current LNP Master Agreement presents no obstacle whatsoever to changing LNP administration at any time
 - » The LNPA-WG is currently considering the technical and operational feasibility of a Telcordia proposal, which the LLC may subsequently consider
- » The costs associated with an LNP proposal are not the sole criterion that the LLC considers. Among others, the LLC considers:
 - » The neutrality, financial responsibility, and experience of potential LNP administrators; and
 - » Which LNP administrator is best able to provide timely, cost-effective, operationally feasible, stable, reliable and technically proficient services
- » The rates set forth in an LNP proposal are not the sole costs associated with the proposal

The Industry Itself Successfully Resolves Issues Regarding LNP Administration and the LLC's Decisions

- » Any carrier can become a member of the LLC
- » The LLC meetings are open to the public
 - » Closed sessions occur when proprietary contractual matters subject to confidentiality restrictions must be discussed by the LLC
- » The FCC “strongly encourages all parties to attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC.”
 - » NANC provides ongoing general oversight of number portability administration, including oversight of the LLC
 - » Any party who objects to an LLC decision can raise the issue before the NANC
- » No party has supported Telcordia's request that the FCC immediately assume the LLC's responsibilities
 - » Some parties would like the LLC itself to issue an RFP as soon as possible
 - » Some parties would like the FCC to exercise its oversight authority more actively
 - » Some parties feel that no change to current practice is necessary

The Intervention Telcordia Requests Is Unnecessary and Inappropriate

- » Telcordia attempts to have the FCC focus solely on rates and substitute its judgment for the experience of the LLC
 - » The FCC correctly rejected this approach after full consideration when it accepted NANC's recommendation that the LLC provide immediate oversight and management of the LNP Administrator
 - » Rates are not the sole costs associated with an LNP proposal, and the associated costs are not the only relevant factor
- » Telcordia has offered little more than bare assertions that the FCC needs to oversee LNP contracting, without cogent explanation or justification for its claims

The FCC Has Always Focused on Competitive Neutrality

- » The FCC has always focused on ensuring non-discriminatory access to the LNP system
- » In light of the LLC's expertise, the FCC has never focused on the specific terms and conditions of the LNP administrator Master Agreements
 - » The FCC likewise has never focused on the specific terms and conditions of the numerous amendments (Amendment 78 being the most recent) that the LLC has implemented since 1997
- » The sole reason why the FCC granted NANC's recommendation that the LLC provide immediate oversight and management of the LNP administrator on an interim basis was to ensure that the LLC treats all carriers fairly
 - » The LLC unquestionably treats all carriers fairly



The LLC Has the Authority to Extend the Master Contract

- » The LLC ensures that all carriers have non-discriminatory access to LNP services
 - » Section 251 of the Act authorizes the FCC “to create or designate one or more impartial entities to administer telecommunications numbering”
 - » The FCC made the LLC responsible for negotiating the contracts with the respective LNP administrators
 - » The FCC explicitly declined to require the LLC and the LNP administrators to file their contracts
- » The LLC has modified the Master Agreement with NeuStar several times – currently on Amendment 78 -- without FCC intervention. Past modifications include:
 - » Modifications to the NPAC/SMS;
 - » Assignment to NeuStar after Lockheed-Martin spin-off;
 - » Implementation of number pooling
 - » Implementation of wireless number porting; and
 - » Price reductions and contract improvements

CICA Does Not Apply To the LLC or LNP Administration

- » The Competition in Contracting Act (“CICA”) applies only to the direct procurement of “goods” and “services” by government agencies
 - » None of the LLC Members is a federal government agency or an agent of the federal government
 - » The LLC oversees the provision of LNP services to all carriers, none of which is a federal government agency or an agent of the federal government
 - » The federal government does not purchase anything from the LLC or the LNP administrator, let alone “goods” or “services” as defined by the CICA
- » The mere regulation by the FCC of the manner in which LNP costs are shared and distributed among carriers does not convert the FCC into a procurer of LNP services
- » Even under CICA, open bidding is required only for amendments that are outside the scope of the initial procurement
 - » All amendments to the Master Agreement have been within the scope of the initial procurement

The Master Agreement Does Not Violate Antitrust Law

- » The antitrust laws do not prohibit the LLC from choosing a single LNP administrator
- » The LLC is the sole negotiator of LNP services on behalf of the telecommunications industry and is under no legal obligation to split its purchases among a variety of providers
 - » Product markets cannot be defined in terms of the purchases of a single buyer
- » The inseverability clause to which Telcordia objects is a commonplace provision ensuring that parties are bound by negotiated terms

Portability Must Evolve to Reflect Changes in Technology

- » Section 52.25 of the FCC's rules provides that information contained in the LNP databases "shall be limited to the information necessary to route telephone calls"
 - » The data fields about which Telcordia complains are necessary to route telephone calls when using certain new technologies
 - » Congress intended portability to be a "dynamic concept" that accommodates technological changes
- » Telcordia's suggestion that "telephone calls" are limited solely to "telecommunications services" lacks legal and historical support
 - » The NPAC database has always included fields that are relevant not only to telecommunications services but also information services, including, for example, the ISVM field (Message Waiting Indicator)
- » The NANC, which is currently considering these issues, should be permitted to complete its consideration without intervention from the FCC

The Relief Telcordia Requests Is Not in the Public Interest

- » Consumers would not benefit from Commission intervention
- » Grant of Telcordia's request for immediate wholesale dismantling of the current system would introduce chaos into LNP administration by:
 - » Resurrecting the 2002 version of the agreement and locking the terms in place, prohibiting the inclusion of new services and enhancements;
 - » "Firing" the LLC and requiring the Commission itself assume the day-to-day administrative, supervisory, and contractual duties;
 - » Delaying the implementation of new functionalities that provide improved access to new services; and
 - » Commencing an accelerated and undefined public bidding for an as yet undefined next-gen "multi-vendor peering NPAC/SMS."
- » The public interest would continue to be served by affirming the authority of the LLC to provide immediate oversight and management of the LNP Administrator(s)

Conclusion

- » The FCC should deny Telcordia's Petition
- » The FCC should adopt, on a permanent basis, NANC's recommendation that the LLC provide immediate oversight and management of the LNP Administrator(s) because the LLC unquestionably has ensured that all carriers have non-discriminatory access to LNP services
- » The FCC should reiterate that all parties, including Telcordia, should attempt to resolve issues regarding number portability deployment among themselves and, if necessary, under the auspices of the NANC rather than the FCC

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